

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

DESIRE, LLC, a California Limited Liability Company,

Plaintiff,

- against -

N.Y. INVASION, INC., a New York corporation; FAME FASHION HOUSE LLC, a New York limited liability company; FASHION COLLECTIONS SPORTSWEAR, INC., a New York corporation; and DOES 1-10,

Defendants.

Case No.: 18-cv-7890

**PLAINTIFF'S COMPLAINT FOR  
COPYRIGHT INFRINGEMENT**

**JURY TRIAL DEMANDED**

DESIRE, LLC, by and through its undersigned attorney, hereby prays to this honorable Court for relief based on the following:

**JURISDICTION AND VENUE**

1. This action arises under the Copyright Act of 1976, Title 17 U.S.C., § 101 *et seq.*
2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and 1338 (a) and (b).
3. Venue in this judicial district is proper under 28 U.S.C. § 1391(c) and 1400(a) in that this is the judicial district in which a substantial part of the acts and omissions giving rise to the claims occurred.

**PARTIES**

4. Plaintiff DESIRE, LLC is a California limited liability company.
5. Plaintiff is informed and believes and thereon alleges that Defendant N.Y. INVASION, INC. ("NY INVASION") is a New York Corporation, with its principal place of

business located at 132 W. 36<sup>th</sup> Street, Room 506 New York, New York 10018, and is doing business in and with the state of New York.

6. Plaintiff is informed and believes and thereon alleges that Defendant FAME FASHION HOUSE LLC (“FAME FASHION HOUSE”) is a New York limited liability company, with its principal place of business located at 1 W. 34<sup>th</sup> Street, Room 602 New York, New York 10001, and is doing business in and with the state of New York.

7. Plaintiff is informed and believes and thereon alleges that Defendant FASHION COLLECTIONS SPORTSWEAR, INC. (“FASHION COLLECTION”) is a New York corporation, with its principal place of business located at 1407 Broadway, Room 2322 New York, New York 10018, and is doing business in and with the state of New York.

8. Plaintiff is informed and believes and thereon alleges that Defendants DOES 1 through 10, inclusive, are other parties not yet identified who have infringed Plaintiff’s copyrights, have contributed to the infringement of Plaintiff’s copyrights, or have engaged in one or more of the wrongful practices alleged herein. The true names, whether corporate, individual or otherwise, of Defendants 1 through 10, inclusive, are presently unknown to Plaintiff, which therefore sues said Defendants by such fictitious names, and will seek leave to amend this Complaint to show their true names and capacities when same have been ascertained.

9. Plaintiff is informed and believes and thereon alleges that at all times relevant hereto each of the Defendants was the agent, affiliate, officer, director, manager, principal, alter-ego, and/or employee of the remaining Defendants and was at all times acting within the scope of such agency, affiliation, alter-ego relationship and/or employment; and actively participated in or subsequently ratified and/or adopted each of the acts or conduct alleged, with full knowledge

of all the facts and circumstances, including, but not limited to, full knowledge of each violation of Plaintiff's rights and the damages to Plaintiff proximately caused thereby.

**CLAIMS RELATED TO DESIGN NO. CC3460**

10. Plaintiff owns an original two-dimensional artwork used for purposes of textile printing entitled CC3460 ("Subject Design") which has been registered with the United States Copyright Office.

11. Prior to the acts complained of herein, Plaintiff sampled fabric bearing the Subject Design to Top Fashion of N.Y. who provided said fabric to Manna Textiles, Inc. Manna in turn created a derivative of the Subject Design ("Infringing Design") styled Techno-PT-10600, which was adjudged to be an infringement of the Subject Design in *Desire, LLC v. Manna Textiles, Inc., et al.* 2:16-cv-4295.

12. Plaintiff is informed and believes and thereon alleges that Manna Textiles, Inc. sold fabric bearing the Accused Design to NY INVASION, FAME FASHION HOUSE, FASHION COLLECTION, and DOE Defendants.

13. Plaintiff is informed and believes and thereon alleges that following its purchase of the Accused Design, NY INVASION, FAME FASHION HOUSE, FASHION COLLECTION, DOE Defendants, and each of them distributed and/or sold fabric and/or garments featuring the Accused Design (hereinafter "Subject Product") without Plaintiff's authorization.

14. Representative images of the Subject Design and Accused Design, and of their dominant floral elements, are set forth hereinbelow:

**Subject Design**



**Accused Design**



**FIRST**  
**CLAIM FOR**



**RELIEF**

(For Copyright Infringement - Against All Defendants, and Each)

15. Plaintiff repeats, realleges and incorporates herein by reference as though fully set forth the allegations contained in the preceding paragraphs of this Complaint.
16. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, had access to the Subject Design, including, without limitation, through (a) access to

Plaintiff's showroom and/or design library; (b) access to illegally distributed copies of Subject Design by third-party vendors and/or DOE Defendants, including without limitation international and/or overseas converters and printing mills; (c) access to Plaintiff's strike-offs and samples, and (d) access to garments in the marketplace manufactured with lawfully printed fabric bearing Subject Designs.

17. Plaintiff is informed and believes and thereon alleges that one or more of the Defendants manufactures garments and/or is a garment vendor. Plaintiff is further informed and believes and thereon alleges that said Defendant(s), and each of them, has an ongoing business relationship with Defendant retailers, and each of them, and supplied garments to said retailers, which garments infringed Subject Designs in that said garments were composed of fabric which featured unauthorized print designs that were identical or substantially similar to Subject Designs, or were an illegal modification thereof.

18. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, infringed Plaintiff's copyright by creating, making and/or developing directly infringing and/or derivative works from Subject Designs and by producing, distributing and/or selling Subject Products through a nationwide network of retail stores, catalogues, and through on-line websites.

19. Due to Defendants', and each of their, acts of infringement, Plaintiff has suffered damages in an amount to be established at trial.

20. Due to Defendants', and each of their, acts of copyright infringement as alleged herein, Defendants, and each of them, have obtained profits they would not otherwise have realized but for their infringement of the Subject Design. As such, Plaintiff is entitled to

disgorgement of Defendants', and each of their, profits attributable to the infringement of Subject Designs in an amount to be established at trial.

21. Plaintiff is informed and believes and thereon alleges that Defendants, and each of them, have committed copyright infringement with actual or constructive knowledge of Plaintiff's rights such that said acts of copyright infringement were, and continue to be, willful, intentional and malicious.

**PRAAYER FOR RELIEF**

Wherefore, Plaintiff prays for judgment as follows:

- a. That Defendants—each of them—and their respective agents and servants be enjoined from importing, manufacturing, distributing, offering for sale, selling or otherwise trafficking in any product that infringes Plaintiff's copyrights in Subject Designs;
- b. That Plaintiff be awarded all profits of Defendants, and each of them,\_plus all losses of Plaintiff, the exact sum to be proven at the time of trial, or, if elected before final judgment, statutory damages as available under the Copyright Act, 17 U.S.C. § 101 et seq.;
- c. That Plaintiff be awarded its attorneys' fees as available under the Copyright Act U.S.C. § 101 et seq.;
- d. That Plaintiff be awarded pre-judgment interest as allowed by law;
- e. That Plaintiff be awarded the costs of this action; and
- f. That Plaintiff be awarded such further legal and equitable relief as the Court deems proper.

Plaintiff demands a jury trial on all issues so triable pursuant to Fed. R. Civ. P. 38 and the 7<sup>th</sup> Amendment to the United States Constitution.

Dated: August 30, 2018

Respectfully submitted:

By: /s/ Michael D. Steger

Michael D. Steger (MS2009)  
DONIGER / BURROUGHS APC  
30 Ramland Road, Suite 201  
Orangeburg, NY 10962  
(646) 517-0600  
(845) 689-2155 (fax)  
[michael@donigerlawfirm.com](mailto:michael@donigerlawfirm.com)  
Attorney for Plaintiff